

**TRANSMITTAL LETTER**  
**(General - Patent Pending)**

Docket No.  
**FRK-086**

IR

In Re Application Of: **Mosing, Donald E.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/027,502	27 November 2001	Daniel P. Stodola	021897	3679	1988

Title:

**Slip Groove Gripping Die**

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**Return Postcard;**  
**Third Amended Brief to Board of Patent Appeals and Interferences Under 37 CFR 41.37;**  
**Claims Appendix;**  
**Evidence Appendix; and**  
**Copy of Office Communication dated 12/1/06.**

in the above identified application.

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Dated: May 7, 2008

*Signature*

William E. Johnson, Jr.  
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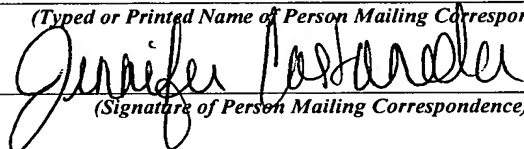
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CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)			Docket No.	
Applicant(s): Mosing, Donald E.			FRK-086	
Application No. 10/027,502	Filing Date 27 November 2001	Examiner Daniel P. Stodola	Customer No. 021897	Group Art Unit 3679
Invention: Slip Groove Gripping Die				
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PRACTITIONER'S DOCKET NO.: FRANKS-086

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: MOSING, DONALD E. §  
APPLICATION NO.: 10/027,502 § GROUP No.: 3679  
FILED: NOVEMBER 27, 2001 § EXAMINER: DANIEL P. STODOLA  
§  
FOR: SLIP GROOVE GRIPPING DIE §

**THIRD AMENDED BRIEF TO BOARD OF PATENT APPEALS AND INTERFERENCES**  
**UNDER 37 CFR 41.37**

HON. COMMISSIONER OF PATENTS  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

Dear Sir:

**REMARKS**

Responsive to the Office Communication dated April 9, 2008, please enter the enclosed, revised Appeal Brief.

The only changes in this Brief relate to a revision of Article 9, which has been amended to more fully comply with the requirements of 37 CFR 41.37(c)(1)(v).

The entire Brief, however, is resubmitted herewith, based upon the Examiner's statement that the EVIDENCE APPENDIX (Article 9) was incomplete when originally submitted. Complete Copies of the U.S. Patent Nos. 4,678,209 and 5,971,086, as well as the blown-up drawings of FIG.'s 3 and 4 of U.S. Patent No. 4,678,209 are also enclosed.

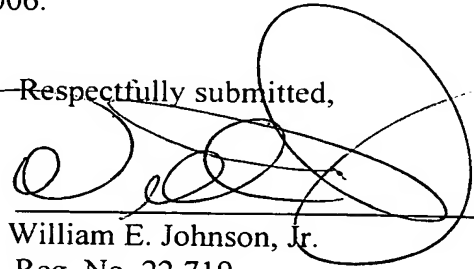
With all due respect, there would appear to be no reason for the Examiner to object to Exhibit C. FIG.'s 3 and 4 of Exhibit C are merely duplicates of FIG.'s 3 and 4 of U.S. Patent No. 4,678,209, with lines 100, 101, 102 and 103 added to show that the lines 100 and 101, as well as the lines 102 and 103 can not be parallel.

Moreover, Exhibit C is identical to Exhibit A which was filed in the application on November 15, 2006, which Amendment was entered into this application filed by the Examiner in the Office Communication dated December 1, 2006. For the convenience of the Examiner, a copy of that transmission is enclosed herewith which indicates on its line 7 the

following, "for purposes of appeal the proposed amendment will be entered..."

The Evidence Appendix numbered as Appendix 9, is also marked showing Exhibit C as having been entered on November 15, 2006.

May 7, 2008  
Date

~~Respectfully submitted,~~  
  
\_\_\_\_\_  
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**PRACTITIONER'S DOCKET NO.: FRANKS-086**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: MOSING, DONALD E.	§	
APPLICATION No.: 10/027,502	§	GROUP No.: 3679
FILED: NOVEMBER 27, 2001	§	EXAMINER: DANIEL P. STODOLA
	§	
FOR: SLIP GROOVE GRIPPING DIE	§	

**THIRD AMDENDED BRIEF TO BOARD OF PATENT APPEALS AND INTERFERENCES**  
**UNDER 37 CFR 41.37**

**1. Real Party In Interest**

The real party in interest is Frank's Casing Crew and Rental Tools, Inc.

**2. Related Appeals and late references**

None

**3. Status of Claims**

The following set of claims 1-10, 12-16, 19 and 20, were all finally rejected and are currently on appeal.

Claims 1-10, 12-16, 19, and 20 are rejected.

Claims 11 and 17-18 have been cancelled.

**4. Status of Amendments**

All amendments to the claims have already been entered by the Examiner. No amendments are currently pending.

**5. Summary of Claimed Subject Matter of Independent Claims 1, 5, 12, 19 and 20.**

**CLAIM 1**

1. A die insert for use in die insert confining grooves in slips for use in pipe string handling apparatus, the die insert comprising:

a) a front face with pipe gripping teeth and a back face being generally parallel to said front face; and

b) said back face including textured relief for engaging the slip.

**Analysis under 37 CFR 41.37 (c)(1)(v)**

Claim 1 calls for a die insert for a slip having a front face and a back face and for the two faces to be generally parallel, and for the back to be textured, or to have surface depressions. The die insert for Claim 1 is identified with the numeral 1 in FIG. 1 and by the numeral 4 in FIG.'s 5, 6, 7 and 8, is described in the specification on page 7, lines 1-15. The die insert 1 illustrated in FIG. 1 resides in a slip (labeled as "SLIP" in FIG. 1), also described on page 7, lines 1-15 of the specification. The die insert 1, illustrated in FIG. 1 has a front face 2 and a back face 3. The front face 2 has teeth (unnumbered) for engaging a pipe and the back surface 3 is roughed up or textured to prevent or lessen movement between the die insert 1 and the slip, as described on page 7, lines 8-10 of the specification. The faces 2 and 3 are parallel to each other, as presented in claim 1 as originally filed in this application. Claim 1 does not call for means plus function or step plus function as contemplated by 35 USC 112, sixth paragraph.

**CLAIM 5**

5. A die insert for use in a pipe string handling apparatus having first and second faces, said first and second faces being generally parallel to each other, said die insert comprising;

- a) said first faces textured with projecting teeth for gripping pipe surfaces; and
- b) the second face textured with surface depressions forming indicia to reduce the surface area in contact with a mating surface of die insert carrying slips such that more than a selected normal loading of the die insert will coin an impression of the indicia of the textured surface of the die insert into the mating surface of the related die insert carrying slip, for the purpose of reducing the tendency of the die insert to slide [[in]] on the slip when the die insert is carrying a substantial payload.

**Analysis under 37 CFR 41.37 (c)(1)(v)**

Claim 5 calls for a die insert for a slip having a front face and a back face and for the two faces to be generally parallel, and for the back to be textured, or to have surface depressions. The die insert for Claim 5 is identified with the numeral 1 in FIG. 1 and by the numeral 4 in FIG.'s 5, 6, 7 and 8, is described in the specification on page 7, lines 1-15. The die insert 1 illustrated in FIG. 1 resides in a slip (labeled as "SLIP" in FIG. 1), also described on page 7, lines 1-15 of the specification. The die insert 1, illustrated in FIG. 1 has a front

face 2 and a back face 3. The front face 2 has teeth (unnumbered) for engaging a pipe and the back surface 3 is roughed up or textured to prevent or lessen movement between the die insert 1 and the slip, as described on page 7, lines 8-10 of the specification. The faces 2 and 3 are parallel to each other, as presented in Claim 5 as originally filed in this application. Claim 5 does not call for means plus function or step plus function as contemplated by 35 USC 112, sixth paragraph.

#### **CLAIM 12**

12. A die insert for use in a pipe handling apparatus, having first and second faces, said first and second being generally parallel with respect of each other, said die insert comprising;

a) said first face textured with projecting teeth for gripping pipe surfaces; and

b) the second face textured with surface depressions created to displace metal upward in the vicinity of the depression to present a small elevated surface accumulation of such limited effective collective load bearing area that the raised metal will be imbedded into a surface of insert supporting surfaces of a die carrying slip, when subjected to a preselected amount of force substantially perpendicular to said second face, to reduce the tendency for the insert to slide on the insert support surfaces and create indicia on the insert support surfaces.

#### **Analysis under 37 CFR 41.37 (c)(1)(v)**

Claim 12 calls for a die insert for a slip having a first face and a second face and for the two faces to be generally parallel, and for the back to be textured, or to have surface depressions. The die insert for Claim 12 is identified with the numeral 1 in FIG. 1 and by the numeral 4 in FIG.'s 5, 6, 7 and 8, is described in the specification on page 7, lines 1-15. The die insert 1 illustrated in FIG. 1 resides in a slip (labeled as "SLIP" in FIG. 1), also described on page 7, lines 1-15 of the specification. The die insert 1, illustrated in FIG. 1 has a first face 2 and a second face 3. The first face 2 has teeth (unnumbered) for engaging a pipe and the back surface 3 is textured with surface depressions to displace metal upward, to present a small upward surface, such that the raised metal will be imbedded into the slip itself, described on page 4 of the specification, lines 20-25, on page 5, lines 16-21, and with respect to FIG. 4, lines 8 and 9, describing the surface 3, the groove 3a and the metal 3b, thereby to prevent or lessen movement between the die insert 1 and the slip, as described on page 7, lines 8-10 of the specification. Claim 12 does not call for means plus function or step plus function as contemplated by 35 USC 112, sixth paragraph.

### **CLAIM 19**

19. A die insert for use in a slip for use in a pipe handling apparatus, the die insert comprising:

a front face with a pipe gripping surface;

a back face, said back face is being generally parallel to said front face, wherein said back face contacts said slip; and

substantially uniform textured relief formed on a surface of the back face for forming and engaging impressions in the opposing surface of the slip when forced against the opposing surface to add skid resistance between the die insert and the opposing surface.

### **Analysis under 37 CFR 41.37 (c)(1)(v)**

Claim 19 calls for a die insert for a slip having a front face and a back face and for the two faces to be generally parallel, and for the back to be textured. The die insert for Claim 19 is identified with the numeral 1 in FIG. 1 and by the numeral 4 in FIG.'s 5, 6, 7 and 8, is described in the specification on page 7, lines 1-15. The die insert 1 illustrated in FIG. 1 resides in a slip (labeled as "SLIP" in FIG. 1), also described on page 7, lines 1-15 of the specification. The die insert 1, illustrated in FIG. 1 has a front face 2 and a back face 3. The front face 2 has teeth (unnumbered) for engaging a pipe and the back surface 3 is textured to prevent or lessen movement between the die insert 1 and the slip, as described on page 7, lines 8-10 of the specification. The faces 2 and 3 are parallel to each other, as originally filed in this application. Claim 19 calls for textured relief on the back face for forming and engaging impressions in the surface on the slip, described, with respect to FIG. 1, on page 7, lines 7-10 of the specification. Claim 19 does not call for means plus function or step plus function as contemplated by 35 USC 112, sixth paragraph.

### **CLAIM 20**

20. A die insert for use in a pipe sting handling apparatus having first and second faces, said first and second faces being generally parallel to each other, said die insert comprising;

said first face being textured with projecting teeth for gripping pipe surfaces;

said second face having a surface area, wherein said surface area at least partially contacts a mating surface of a slip; and

the second face textured with surface depressions to reduce the surface area in contact



with said mating surface of a slip such that the loading of the die insert will coin an impression of the textured surface of the die insert into the mating surface of the related slip, for the purposed of transferring the loading from the die insert to the slip.

**Analysis under 37 CFR 41.37 (c)(1)(v)**

Claim 20 calls for a die insert for a slip having a front face and a back face and for the two faces to be generally parallel, and for the back to be textured, or to have surface depressions. The die insert for Claim 20 is identified with the numeral 1 in FIG. 1 and by the numeral 4 in FIG.'s 5, 6, 7 and 8, is described in the specification on page 7, lines 1-15. The die insert 1 illustrated in FIG. 1 resides in a slip (labeled as "SLIP" in FIG. 1), also described on page 7, lines 1-15 of the specification. The die insert 1, illustrated in FIG. 1 has a front face 2 and a back face 3. The front face 2 has teeth (unnumbered) for engaging a pipe and the back surface 3 is textured to prevent or lessen movement between the die insert 1 and the slip, as described on page 7, lines 8-10 of the specification. The faces 2 and 3 are parallel to each other, as originally filed in this application. Claim 20 also calls for the texture pattern of lands 6d on the back surface 3 of the slip 1 to be coined into the surface of the slip 1, itself, all as described with respect to FIG.'s 7 and 8, on page 9, lines 1-8 of the specification. Claim 20 does not call for means plus function or step plus function as contemplated by 35 USC 112, sixth paragraph.

**6. Grounds of Rejection To Be Reviewed On Appeal**

a) Claims 1, 3-5, 8-10, 12, 15-16, 19 and 20, have been rejected under 35 USC 102 (b) as being anticipated by U.S. Patent No. 4,678,209 to Guice (the '209 patent). Please see Exhibit A.

b) Claims 2, 6, 7, 13 and 14 have been rejected under 35 USC 103 (a) as being unpatentable over U.S. Patent No. 4,678,209 to Guice (the '209 patent) in view of U.S. Patent No. 5,971,086 to Bee, et al (the '086 patent). Please see Exhibit B.

**7. Argument**

**Claim Rejections – 35USC § 102**

A favorable consideration is respectfully requested for Claims 1, 3-5, 8-10, 12, 15, 16, 19, and 20, said claims having been rejected under 35 USC 102(b) as being anticipated by

U.S. Patent No. 4,678,209 to Guice. These rejections are respectfully traversed.

Applicant's die inserts and slips are used to grip pipe for such operations as, but not limited to, drilling, running and tripping tubulars, making up and breaking out tubulars, and handling tubulars around the rig area. Die inserts are used because they are less expensive to change out and a particular set of slips can be used for various size tubulars by just changing the die inserts. Traditionally die inserts had a smooth back face which contacted the smooth face of the slip. These die inserts were bolted to the slips or were inserted in a groove or otherwise confined or attached to the slip or die inserts. The Applicant has discovered that, by adding some type of texture or depression to the back face of the die insert, the die insert will transfer load more uniformly across the surface of the die insert contacting the slip. In turn, the load on the slips is distributed more evenly; thus, substantially lowering the possibility that any parts of the die inserts, slips, or pipe handling equipment will fail due to entire loads being supported at just a few points.

Applicant respectfully submits that the Guice '209 reference is non-analogous art. The applicant claims a die insert for slips in a pipe handling apparatus. The Guice reference, being directed to a casing hanger, does not even disclose or suggest using die inserts. The die inserts in the current application are used to grip the pipe, whereas the slips themselves, not the dies, in the Guice reference are used to grip the pipe. The purpose of using these die inserts is to make sure that the pipe is gripped in such a way that no portion of the slip contacts the pipe before another portion of the slip. Another purpose of the die insert is to be replaceable in case some of the teeth break off. For example, if the teeth, 32, in the Guice '209 patent are broken off, the entire slip has to be replaced. By using a plurality of die inserts, a die insert can be damaged and replaced by another die insert for much less time and expense. For this technology to work properly, the die inserts must all contact the pipe at the same time. In sharp contrast from the present application, the Guice reference discloses a slip without the use of die inserts. Instead, the Guice reference discloses a slip in which one face of the slip is vertical, to ensure that most or all of the teeth are in contact with the tubular (see Guice, Column 4, Lines 19-21), and the other face of the slip is tapered to slide down the tapered slip bowl while the vertical face continues its vertical orientation (see FIG. 5). The face gripping the pipe will generally remain vertical to grip all portions of the pipe at the same time. Because the back face of the slip must be tapered, it cannot be parallel to the front face of the slip.

Additionally, the Examiner argues that the faces of Guice ('209) are generally parallel as evidenced by the illustration in Fig. 2. With all due respect, the Examiner erroneously interpreted Fig. 2 of the Guice reference. Although the faces appear to be parallel in the view of Fig. 2, it cannot be determined from that top view whether the faces are parallel (meaning extending in the same direction and never converging or diverging). Only the top edges of the faces can be seen in Fig. 2 and therefore it cannot be determined whether they are parallel. In fact, they are not parallel. This can be seen in Figs. 3, 4 and 5 of the Guice reference. These figures show the length of the front and back faces and show that the faces are, in fact, not parallel (extending in the same direction and never converging or diverging). Included as Exhibit C are blown up versions of Guice's FIG. 3 and FIG. 4. We have extended the faces in both FIG. 3 and FIG. 4 (see Exhibit C, 100, 101, 102, 103, and 104) so the Board can clearly see that the lines converge. Since the lines extended from the faces converge, the faces are not parallel.

Additionally, the invention, as disclosed in the Guice reference, would not function properly if the faces were parallel because, as can be seen in FIG. 1 of the Guice reference, the slip 20 must grip the pipe in a "face-to-face engaging relationship." Guice, Column 4, lines 19-21. In order to accomplish the slip engaging the pipe face-to-face and also sliding up and down the tapered bowl (FIG.1), the faces cannot be parallel (See FIG. 5).

In sharp contrast, each and every claim of the current application requires that the front and back faces of the die inserts be substantially **parallel**. Therefore, it is respectfully submitted that Claims 1, 3-5, 8-10, 12, 15, and 16 are patentable over the cited Guice reference and that the rejection should be withdrawn.

### **Claim Rejections-35 USC § 103**

Reconsideration is respectfully requested for Claims 2, 6, 7, 13, and 14, said claims having been rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 4,678,209 to Guice in view of U.S. Patent No. 5,971,086 to Bee et al. Applicant respectfully traverses this rejection. The reference to Bee et al does not add anything to the Guice reference to support a rejection. Bee simply discloses adding a coating to the teeth 11, which are on the front face of the slip. There is nothing in the Bee reference which discloses roughing the back face of the die. Claims 2, 6, 7, 13, and 14 are thereby submitted to be patentable for the reasons set forth above.

8. **Claims Appendix**

See attached Claims Appendix.

9. **Evidence Appendix**

See attached Evidence Appendix.

10. **Related Proceedings Appendix**

None

**SUMMARY**

The cited art does not disclose, teach or even suggest a die insert having parallel first and second faces, wherein the first face has teeth for gripping pipe surfaces and the second face has a surface which is textured, or which contains depressions to add skid resistance between the second face of the die insert and the slip, as called for in each of Claims 1-10, 13-16, 19 and 20.

It is therefore respectfully submitted that Claims 1-10, 12-16, 19 and 20 are patentably distinct over the art of record. The Applicant courteously solicits the allowance of Claims 1-10, 12-16, 19 and 20.

Respectfully submitted,

\_\_\_\_\_  
Date

\_\_\_\_\_  
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PRACTITIONER'S DOCKET NO.: FRANKS-086

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: MOSING, DONALD E. §  
APPLICATION No.: 10/027,502 § GROUP No.: 3679  
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**UNDER 37 CFR 41.37**

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**8. CLAIMS APPENDIX**  
**CLAIMS 1-10,12-16, 19 AND 20 ALL REJECTED AND CURRENTLY ON APPEAL**

**THIRD AMENDED APPEAL BRIEF TO BOARD OF PATENT APPEALS**  
**AND INTERFERENCES UNDER 37 CFR 41.37**

**CURRENT STATUS OF CLAIMS**

Please find the current status of the claims, as of the filing of this amendment paper, as follows:

1. (Rejected) A die insert for slips for use in a pipe handling apparatus, the die insert comprising:
  - a) a front face with pipe gripping teeth and a back face being generally parallel to said front face; and
  - b) said back face including textured relief for engaging the slip.
2. (Rejected) The die insert according to Claim 1 wherein said textured relief comprises a plurality of generally transverse relief patterns, the relief representing surface depressions of more than one one-thousandth inch.
3. (Rejected) The die insert according to Claim 1 wherein said texture relief is achieved by a plurality of generally transverse scribe lines.

4. (Rejected) The die insert according to Claim 1 wherein said texture relief is achieved by acid etching of the surface of the back face.
5. (Rejected) A die insert for use in a pipe handling apparatus having first and second faces, said first and second faces being generally parallel to each other, said die insert comprising;
  - a) said first faces textured with projecting teeth for gripping pipe surfaces; and
  - b) the second face textured with surface depressions forming indicia to reduce the surface area in contact with a mating surface of die insert carrying slips such that more than a selected normal loading of the die insert will coin an impression of the indicia of the textured surface of the die insert into the mating surface of the related die insert carrying slip, for the purpose of reducing the tendency of the die insert to slide in on the slip when the die insert is carrying a substantial payload.
6. (Rejected) The die insert according to Claim 5 wherein said textured surface depressions are more than one one-thousandth of an inch deep.
7. (Rejected) The die insert according to Claim 5 wherein said textured surface depressions comprise a plurality of generally transverse relief patterns, the relief representing a surface depression of more than one thousandth inch.
8. (Rejected) The die insert according to Claim 5 wherein said textured surface depressions are achieved by a plurality of generally transverse scribe lines.
9. (Rejected) The die insert according to Claim 5 wherein said textured surface depressions are achieved by acid etching of the insert.
10. (Rejected) The die insert according to claim 5 wherein said textured surface on said second face forming indicia comprises a logo or drawing.
11. Canceled
12. (Rejected) A die insert for use in a pipe handling apparatus, having first and second faces, said first and second faces being generally parallel with respect of each other, said die insert comprising;
  - a) said first faces textured with projecting teeth for gripping pipe surfaces; and
  - b) the second face textured with surface depressions created to displace metal upward in the vicinity of the depression to present a small elevated surface accumulation of such limited effective collective load bearing area that the raised metal will be imbedded into a surface of insert supporting surfaces of a die carrying slip, when subjected to a preselected amount of force substantially perpendicular to said second face, to reduce the tendency for the insert to slide on the insert support surfaces and create indicia on the insert support surfaces.
13. (Rejected) The die insert according to Claim 12 wherein said textured surface depressions are more than one one-thousandth of an inch deep.

14. (Rejected) The die insert according to Claim 12 wherein said textured surface depressions comprise a plurality of generally transverse relief patterns, the relief representing a surface depression of more than one thousandths inch.
15. (Rejected) The die insert according to Claim 12 wherein said textured surface depressions are achieved by a plurality of generally transverse scribe lines.
16. (Rejected) The die insert according to Claim 12 wherein said textured surface depressions are achieved by acid etching of the insert.

17-18. Canceled.

19. (Rejected) A die insert for use in a slip for use in a pipe handling apparatus, the die insert comprising:

- a front face with a pipe gripping surface;
- a back face, said back face being generally parallel to said front face, wherein said back face contacts said slip; and
- substantially uniform textured relief formed on a surface of the back face for forming and engaging impressions in the opposing surface of the slip when forced against the opposing surface to add skid resistance between the die insert and the opposing surface.

20. (Rejected) A die insert for use in a pipe sting handling apparatus having first and second faces, said first and second faces being generally parallel to each other, said die insert comprising;

- said first face being textured with projecting teeth for gripping pipe surfaces;
- said second face having a surface area, wherein said surface area at least partially contacts a mating surface of a slip; and
- the second face textured with surface depressions to reduce the surface area in contact with said mating surface of a slip such that the loading of the die insert will coin an impression of the of the textured surface of the die insert into the mating surface of the related slip, for the purpose of transferring the loading from the die insert to the slip.

**PRACTITIONER'S DOCKET NO.: FRANKS-086**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF : MOSING, DONALD E.

§

APPLICATION No.: 10/027,502

§

GROUP No.: 3679

FILED: NOVEMBER 27, 2001

§

EXAMINER: DANIEL P. STODOLA

§

FOR: SLIP GROOVE GRIPPING DIE

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**UNDER 37 CFR 41.37**

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**9. EVIDENCE APPENDIX**

**THIRD AMENDED APPEAL BRIEF TO BOARD OF PATENT APPEALS**  
**AND INTERFERENCES UNDER 37 CFR 41.37**

- A. US Patent No. 4,678,209 to Guice.
- B. US Patent No. 5,971,086 to Bee, et al.
- C. Blown-Up FIG.'s 3 and 4 of Ex. A. (Entered by the Examiner on November 15, 2006.)





# UNITED STATES PATENT AND TRADEMARK OFFICE

FRK-086

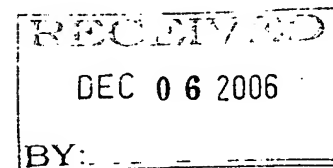
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,502	11/27/2001	Donald E. Mosing	<del>504</del>	1988
21897	7590	12/01/2006		
THE MATTHEWS FIRM 2000 BERING DRIVE SUITE 700 HOUSTON, TX 77057			EXAMINER STODOLA, DANIEL P	
			ART UNIT 3679	PAPER NUMBER

DATE MAILED: 12/01/2006

15 Dec 2006 (3mm from final art)

Please find below and/or attached an Office communication concerning this application or proceeding.



**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/027,502

Applicant(s)

MOSING, DONALD E.

Examiner

Daniel P. Stodola

Art Unit

3679

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 15 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-10, 12-16, 19 and 20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
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SUPERVISORY PATENT EXAMINER  
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Continuation of 11. does NOT place the application in condition for allowance because: as previously addressed in the final rejection, a claim need only "read on" something in a prior art reference for anticipation to exist.